

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

TEXAS MP3 TECHS., LTD.,

vs.

SAMSUNG ELECS. CO., LTD., ET AL.

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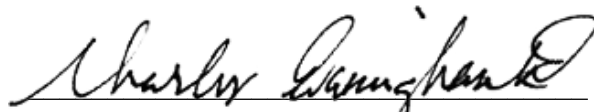
CASE NO. 2:07-CV-052

ORDER

This order resolves the parties' dispute regarding the proposed protective order in this case (#113). The disputed issue is whether the plaintiff may use the defendants' protected discovery materials in reexamination proceedings before the U.S. Patent and Trademark Office. One of the reexamination proceedings is an *inter partes* reexamination that was initiated by Apple, who is a defendant in this case. In this *inter partes* proceeding, Apple is contending that the patent-in-suit is obvious. The plaintiff would like to submit the defendants' protected discovery materials to the PTO in an effort to prove unobviousness through secondary considerations. The defendants do not want their protected materials submitted to the PTO because those materials are confidential and will most likely become part of the public record.

At this time, the court adopts the defendants' proposed protective order provisions. In the event Apple submits its own protected information to the PTO as part of the *inter partes* reexamination proceeding, however, the plaintiff may petition the court for a modification to the protective order. The parties are ordered to submit a proposed protective order to the court within 5 days that conforms to the court's rulings set forth herein.

SIGNED this 18th day of July, 2008.


CHARLES EVERINGHAM IV
UNITED STATES MAGISTRATE JUDGE